

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS EASTERN DIVISION**

COMERICA BANK

Plaintiff,

v.

POTESTA ENTERPRISES, INC., d/b/a
POTESTA'S PIZZA, UPS CAPITAL
BUSINESS CREDIT, UNKNOWN OWNERS
AND NON RECORD CLAIMANTS
Defendants.

Case No. 08 CV 1845

**MOTION FOR ORDER APPROVING REPORT OF SALE AND DISTRIBUTION
AND POSSESSION**

COMERICA BANK, N.A., Plaintiff herein ("Plaintiff"), by and through its attorneys, Much Shelist pursuant to Section 15-1508 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1508, hereby moves for entry of an Order Confirming Sale and approving the Report of Sale and Distribution held in this case. In support of this Motion, Plaintiff respectfully states as follows:

1. On October 30, 2008, pursuant to the Judgment of Foreclosure and Sale entered on July 30, 2008, attached hereto as **Exhibit A**, Intercounty Judicial Sales Corporation conducted a Foreclosure Sale, whereupon the property was sold to Plaintiff as the highest bidder for the credit bid of \$500,000.00.

2. Intercounty issued a Certificate of Sale to Plaintiff, a copy of which is attached hereto as **Exhibit B**, and the Certificate of Sale has been filed with the Court. A copy of the Report of Sale and Distribution is attached here as **Exhibit C**, and a copy of the Receipt Upon Sale is attached here as **Exhibit D**.

3. As required by 735 ILCS 5/15-1508(b):

a. The Notice in accordance with subsection (c) of §15-1507 was given.

b. The terms of the Sale were fair and not unconscionable.

c. The sale was conducted fairly and without fraud.

d. Justice was done in all respects.

4. No objections to the Sale have been filed or otherwise asserted.

5. The Receipt of Sale previously attached as **Exhibit D** sets forth the balance of principal and interest due as of the date of the sale, along with all fees, costs, expenses, and charges incurred by Plaintiff and permitted to be added to the balance due by the terms of the Note and Mortgage and by the Judgment of Foreclosure and Sale. As stated in the Affidavit, the balance due to the Plaintiff is equal to or greater than the amount of the successful bid price at the sale so that there are no sale proceeds to be distributed. Plaintiff's bid price has been paid in full by a credit against the balance due from Defendant Potesta Enterprises, Inc. d/b/a Potesta's Pizza.

6. Plaintiff requests that this Court issue an Order in substantially the same form as that attached hereto as **Exhibit E**.

7. That an Order of Possession shall issue against any and all Defendants who are in possession of the subject premises.

WHEREFORE, COMERICA BANK, N.A., Plaintiff herein, respectfully requests that the Court enter an Order confirming the Foreclosure Sale, approving the Report of Sale and Distribution, directing Intercounty Judicial Sales Corporation to issue a Deed in favor of Plaintiff, directing the Sherriff of Lake County to remove and eject from

possession any and all Defendants who are in possession of the subject premises and for any other and further relief this Court deems appropriate.

Dated: November 12, 2008.

Respectfully submitted,

Comerica Bank

By: /s/ Kurt M. Carlson
One of its Attorneys

Kurt M. Carlson (6236568)
Martin J. Wasserman (6294040)
Much Shelist Denenberg
Ament & Rubenstein, P.C.
191 N. Wacker Drive, Suite 1800
Chicago, Illinois 60606-1615
312.521.2100

United States District Court, Northern District of Illinois

MAN

Name of Assigned Judge or Magistrate Judge	Ruben Castillo	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1845	DATE	7/30/2008
CASE TITLE	Comerica Bank vs. Potesta Enterprises, Inc., et al.		

DOCKET ENTRY TEXT

Motion hearing held on 7/30/2008. Plaintiff's motion for default judgment and judgment of foreclosure and sale [14] is granted. Enter Default Judgment Order and Judgment of Foreclosure and Sale. Judgment is entered against Potesta Enterprises, Inc. in the amount of \$968,243.01. This Court will retain jurisdiction to enforce this Order.

☐ [For further detail see separate order(s).]

Docketing to mail notices.

00:05

FILED-001
2008 JUL 30 PM 5:08
CLERK
U.S. DISTRICT COURT

	Courtroom Deputy Initials:	RO
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

COMERICA BANK, Plaintiff,))
vs.) 08 C 1845
POTESTA ENTERPRISES, INC., D/B/A POTESTA'S)
PIZZA, UPS CAPITAL BUSINESS CREDIT, UNKNOWN)
OWNERS AND NONRECORD CLAIMANTS, Defendants,)

CERTIFICATE OF SALE

I, Andrew D. Schusteff, the undersigned supervisor of sales of **Intercounty Sales Corporation**, selling officer appointed in the matter captioned above, do hereby certify, that pursuant to a Judgment of Foreclosure and Sale entered herein, the plaintiff advertised the following described real estate to be sold at public auction to the highest bidder for cash, as set forth in said advertisement, on Thursday, October 30, 2008, and at that time and place said premises were offered for sale at public auction to the highest bidder for cash, in accordance with said advertisement.

WHEREUPON, Comerica Bank, the plaintiff herein, offered and bid therefore the sum of five hundred thousand and 00/100 dollars (\$500,000.00) and that being the highest and best bid, I accordingly struck off and sold to said bidder the following described real estate:

PARCEL 1: LOTS 5, 6 AND 7 IN BLOCK 2, IN ROUND LAKE BEACH, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, AND PART OF THE NORTHEAST QUARTER OF SECTION 20, AND THE WEST 3 1/3 ACRES OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1927, IN BOOK "S" OF PLATS, PAGE 1, AS DOCUMENT 304291, IN LAKE COUNTY, ILLINOIS.

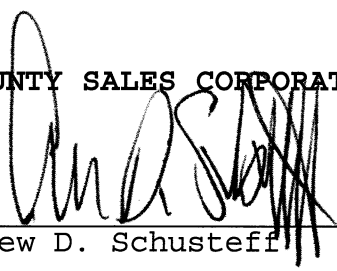
Commonly known as 17-19 W. Rollins Road and 1624 Woodbine Drive, Round Lake Beach, IL 60073.

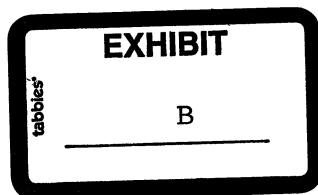
P.I.N. 06-17-406-005/006/026.

This Certificate of Sale is issued subject to confirmation of sale, at which time the holder of this Certificate of Sale will be entitled to a deed.

Witness my hand and seal, in duplicate, this Thursday, October 30, 2008.

INTERCOUNTY SALES CORPORATION

By 
Andrew D. Schusteff



COMERICA BANK, Plaintiff,)
vs.) 08 C 1845
POTESTA ENTERPRISES, INC., D/B/A POTESTA'S)
PIZZA, UPS CAPITAL BUSINESS CREDIT, UNKNOWN)
OWNERS AND NONRECORD CLAIMANTS, Defendants,)

REPORT OF SALE AND DISTRIBUTION

I, Andrew D. Schusteff, the supervisor of sales of **Intercounty Sales Corporation**, selling officer appointed in the matter captioned above, do hereby report:

That pursuant to a Judgment of Foreclosure and Sale entered herein, the plaintiff advertised the following described real estate to be sold at public auction to the highest bidder for cash at 1:30 p.m., as set forth in the certificate of publication attached hereto and made a part hereof;

That said sale was adjourned pursuant to Section 1507(c)(4) of the Illinois Mortgage Foreclosure Law (S.H.A. 735 ILCS 5/1507(c)(4)) by public announcement to October 30, 2008.

That at that time and place, said premises were offered for sale at public auction to the highest bidder on the terms specified in said advertisement;

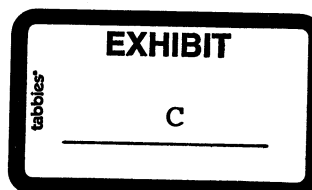
That Comerica Bank, the plaintiff herein, offered and bid therefore the sum of five hundred thousand and 00/100 dollars (\$500,000.00); and

That being the highest and best bid, I accordingly struck off and sold to said bidder the following described real estate:

PARCEL 1: LOTS 5, 6 AND 7 IN BLOCK 2, IN ROUND LAKE BEACH, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, AND PART OF THE NORTHEAST QUARTER OF SECTION 20, AND THE WEST 3 1/3 ACRES OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1927, IN BOOK "S" OF PLATS, PAGE 1, AS DOCUMENT 304291, IN LAKE COUNTY, ILLINOIS.

Commonly known as 17-19 W. Rollins Road and 1624 Woodbine Drive, Round Lake Beach, IL 60073.

P.I.N. 06-17-406-005/006/026.



I, Andrew D. Schusteff, the supervisor of sales of **Intercounty Sales Corporation**, selling officer appointed in the matter captioned above, do hereby further report;

That Intercounty Sales Corporation has executed and delivered to said purchaser its Receipt of Sale, a copy of which is attached hereto, along with a copy of the Certificate of Sale (if any) delivered to said purchaser.

That the proceeds of said sale will, upon confirmation of the sale, be disbursed as follows:

1. To the Plaintiff:

a) The amount due under judgment	\$968,243.01
b) Interest thereon from date of judgment to date of sale	\$21,964.53
c) Publication costs	\$500.00
d) Advances since judgment date	\$0.00
Subtotal	<u>\$990,707.54</u>

2. Costs of Sale

a) To the Selling Officer, as commission	\$300.00
b) Recording/Registration costs	\$0.00
Subtotal	<u>\$300.00</u>

TOTAL AMOUNT DUE PLAINTIFF	<u>\$991,007.54</u>
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TOTAL PROCEEDS OF SALE	<u>\$500,000.00</u>
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SURPLUS OR (DEFICIENCY)	<u>(\$491,007.54)</u>
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Date: October 30, 2008

Respectfully submitted

INTERCOUNTY SALES CORPORATION

By


Andrew D. Schusteff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

COMERICA BANK,	Plaintiff,)	
	vs.) 08 C 1845
POTESTA ENTERPRISES, INC., D/B/A POTESTA'S)	
PIZZA, UPS CAPITAL BUSINESS CREDIT, UNKNOWN)	
OWNERS AND NONRECORD CLAIMANTS,	Defendants,)	

RECEIPT OF SALE

I, Andrew D. Schusteff, the undersigned supervisor of sales of **Intercounty Sales Corporation**, selling officer appointed in the matter captioned above, do hereby certify, that pursuant to a Judgment of Foreclosure and Sale entered herein, the plaintiff advertised the following described real estate to be sold at public auction to the highest bidder for cash, as set forth in said advertisement, on Thursday, October 30, 2008, and at that time and place said premises were offered for sale at public auction to the highest bidder for cash.

WHEREUPON, Comerica Bank, the plaintiff herein, offered and bid therefore the sum of \$500,000.00. That being the highest and best bid, I accordingly struck off and sold to said bidder the following described real estate:

PARCEL 1: LOTS 5, 6 AND 7 IN BLOCK 2, IN ROUND LAKE BEACH, A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 17, AND PART OF THE NORTHEAST QUARTER OF SECTION 20, AND THE WEST 3 1/3 ACRES OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 23, 1927, IN BOOK "S" OF PLATS, PAGE 1, AS DOCUMENT 304291, IN LAKE COUNTY, ILLINOIS.

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P.I.N. 06-17-406-005/006/026.

Intercounty Sales Corporation has this day received as full payment from said bidder the sum of \$500,000.00.

Witness my hand and seal, this Thursday, October 30, 2008.

INTERCOUNTY SALES CORPORATION

By _____

Andrew D. Schusteff

